

JOB EVALUATION REPORT

City Service Commission Meeting Date: May 15, 2012

Department: City Attorney

-Summary-

This report recommends creating a new series for the classification of Assistant City Attorney taking into consideration competency, performance and experience factors in determining appropriate appointment levels and career advancement opportunities.

<u>Current Classification/PR</u>	<u>Proposed Classification Series/PR</u>	<u>Years of Experience</u>
Assistant City Attorney PR 2NX \$53,996 - \$127,809	Assistant City Attorney I PR 2IX \$57,028 - \$79,836	0 to 3
	Assistant City Attorney II PR 2MX \$73,627 - \$103,077	Between 3 and 7
	Assistant City Attorney III PR 2NX \$95,030 - \$133,049	Over 7 years

Background

In December of 2011, City Attorney, Grant Langley, requested a comprehensive review of the Assistant City Attorney classification for purposes of identifying ways to address issues of recruitment, pay equity, and employee retention. A number of meetings were held over the last several months with City Attorney Langley and Deputy City Attorneys Rudolph Konrad, Linda Burke, and Vince Moschella to discuss the rationale for the request and ways to address or alleviate some of the problems.

By City Charter, the Office of the City Attorney handles litigation that includes thousands of lawsuits and administrative cases. Assistant City Attorneys litigate civil-rights cases, personal-injury actions, evictions razing cases, labor grievances, contract cases and construction cases as well as condemnation and real estate matters. By charter, the office also provides legal advice and opinions to city departments, prepares and reviews City ordinances, resolutions, and opinions, drafts contracts and other legal documents that are required in conducting the business of the city, and prosecutes violations of City ordinances in Municipal Court.

The Office of the City Attorney is divided into three legal sections as presented below:

Litigation/Employment/Benefits (LEB)- *The LEB Section represents the Annuity & Pension Board and the Employees' Retirement System, and handles claims, deferred compensation, insurance, personal injury, property damages, civil rights litigation, and appeals.*

Education/Development/Labor (EDL)- *The EDL Section handles finance, labor, Inter-governmental relations, legislative bills, School Board counseling, the Department of City Development, and licensing.*

Ordinance Enforcement/General Services (OE/GS)- *The OE/GS handles Nuisance Abatement/Community Prosecution, municipal prosecutions, procurement services, public records, open meetings, and general contracting and represents the Department of Administration, the Department of Public Works, and the Department of Neighborhood Services.*

The City Attorney's Office is staffed by 33 Assistant City Attorneys. These are civil service positions that require graduation from law school and license to practice law in the State of Wisconsin. Professional legal experience to apply and be considered for this position is not required, but the City has been able to recruit and appoint personnel with experience during tough economic times or when a career in the public service is of interest to candidates.

Assistant City Attorneys are currently allocated to Pay Range 2NX (\$53,996 - \$127,809). The Salary Ordinance authorizes the City Attorney to appoint new individuals anywhere in the range. Of the 33 current incumbents, a total of 14 are at the maximum of the pay range. A total of seven new Assistant City Attorneys have been hired since 2008. The average appointment rate for those individuals was \$65,980. Prior to the expiration of their collective bargaining agreement and the salary freezes implemented for most city employees, Assistant City Attorneys were eligible for merit increases. These increases have been frozen since 2010.

Challenges with the Structure

The current classification structure presumes that all Assistant City Attorney positions require comparable levels of knowledge, skill, and ability and that the complexity of assignments is the same across the Litigation/Employment/Benefits, Education/Development/Labor, and Ordinance Enforcement/General Services sections. The structure and pay progression policies also assume that all Assistant City Attorneys perform at the same level of proficiency without taking into consideration key factors such as experience, level of oversight or direction received, degree of independent judgment exercised, demonstrated knowledge of the principles of law, and responsibility for leading the work of others.

Individuals hired as Assistant City Attorneys have limited opportunity for advancement within the City of Milwaukee if they want to continue practicing law. These limited promotional opportunities and the implementation of salary freezes for most city employees over the last several years have resulted in turnover of relatively new attorneys pursuing advancement opportunities outside the City of Milwaukee after gaining critical experience as Assistant City Attorneys. A total of four individuals have resigned in the past three years. These individuals had between two and a half and six years of service.

The existence of a single classification of Assistant City Attorney does not provide flexibility in the civil service recruitment and examination process. In general, vacant Assistant City Attorney positions are announced with the requirements of graduation from law school and a license to practice law in the State of Wisconsin. Professional legal experience is a desirable qualification but not a requirement. Experienced professionals receive higher examination scores than recent graduates and typically require higher appointment rates than recent graduates who can be appointed at lower salaries based on the labor market. The process does not allow the City Attorney to hire candidates at various levels of expertise depending on the needs of the department.

Current provisions of the Salary Ordinance allow the City Attorney discretion to hire Assistant City Attorneys at any rate between \$53,996 and \$127,809. While the City Attorney has used this recruitment flexibility prudently, there are no pre-defined factors required to be considered in determining when a salary offer may be made at a rate of pay that is higher than the minimum of the range. Consequently, the decision to hire someone at a higher rate of pay is driven by labor market factors and ability to compete with other employers without taking into account experience levels, internal equity or pay compression considerations.

Recommendations

After carefully reviewing and analyzing the options to address the problems stated above, the Department of Employee Relations is recommending creating a three-tier Assistant City Attorney classification as described below.

Classification	Level	Years of legal experience	Pay Range*
Assistant City Attorney I	Entry level	0 to 3 years	PR 2IX \$57,028 - \$79,836
Assistant City Attorney II	Journey level	Between 3 and 7 years	PR 2MX \$73,627 - \$103,077
Assistant City Attorney III	Advanced level	Over 7 years	PR 2NX \$95,030 - \$133,049

**Pay Range equivalencies under the former Management Pay Plan: SG 008, 012, and 016.*

The new classification series will be characterized by the following key elements:

Budget and Position Authority:

- All positions will be authorized at the III level for purposes of implementation of the new structure.
- The City Attorney will have discretion and authority to determine the level at which vacant positions will be filled within established budget authority and resources.

Initial Appointment:

- Appointment of new Assistant City Attorneys with no prior legal experience shall be at level I.
- Appointment of new Assistant City Attorneys with experience shall be at the I, II, or III level based on the experience criterion identified above.
- Consistent with existing recruitment and appointment provisions, the City Attorney shall retain flexibility to appoint at the I and II levels anywhere in the range. Appointment at the Assistant City Attorney III level can be made at a rate that does not exceed \$127,809.
- Appointment from the outside at rates of pay above the minimum shall be done in a manner does not create pay compression or internal equity problems.

Promotion:

- Promotion after under-fill will be consistent with applicable civil service rules.
- Salary after promotion will result in 5% adjustments or the minimum of the new grade, whichever is greater, consistent with existing provisions of the Salary Ordinance.
- Promotion to Assistant City Attorney II or III will be at the discretion of the City Attorney based on criteria identified below.

This new classification structure will require the Office of the City Attorney to use the established criteria (listed in Appendix A) in assessing performance and measuring competencies in order to promote individuals to the Assistant City Attorney II and III levels. The structure will also allow the City Attorney to determine the appropriate level at which vacant Assistant City Attorney positions should be filled based on the needs of the Office and the availability of candidates with varied levels of experience.

The structure may also take into consideration the fact that certain assignments within the City Attorney's Office may not develop into advanced level assignments and advancement opportunities may only be available when employees consider a new area of responsibility within that Office.

The creation of entry, journey, and advanced levels will also result in greater flexibility in the recruitment and examination processes for these civil service positions. Selection processes targeting different levels of experience will provide greater employment opportunities to candidates beginning their career and the City Attorney will be able to consider candidates with various levels of expertise depending on the needs of the department.

It is important to note that upon implementation of the new structure, no current incumbent will see a reduction in pay and we anticipate the promotion of only one incumbent to the Assistant City Attorney II level this year. While the maximum rate of pay (\$133,049) for Assistant City Attorney III is higher than the current maximum of \$127,809, employees are not eligible for salary increases (outside of promotions) based on current provisions in the Salary Ordinance.

In order to implement recommendations contained in this report, it will be necessary to amend the Salary and Positions Ordinance as follows:

In the Salary Ordinance,

Under Pay Range 2IX, add the title "Assistant City Attorney I" with footnote designation (3) to read:
(3) Recruitment is at any rate in the Pay Range at the discretion of the City Attorney.

Under Pay Range 2MX, add the title "Assistant City Attorney II" with footnote designation (1) to read:
(1) Recruitment is at any rate in the Pay Range at the discretion of the City Attorney.

Under Pay Range 2NX, delete the title "Assistant City Attorney (1)" and delete footnote (1) and add the title "Assistant City Attorney III" with footnote designation (1) to read: (1) Recruitment is at any rate up to \$127,809 at the discretion of the City Attorney.

In the Positions Ordinance, Office of the City Attorney, Legal Division,

Delete 32 positions of "Assistant City Attorney (A)(Y)" and add 32 positions of "Assistant City Attorney III (A)(Y)"; delete 3 positions of "Assistant City Attorney (.6FTE)(Y)" and add 3 positions of "Assistant City Attorney III (.6FTE)(Y)". Under Auxiliary Positions, delete 1 position of "Assistant City Attorney (Y)" and add 1 position of "Assistant City Attorney III (Y)".

Prepared by: _____
Maria Monteagudo, Employee Relations Director

APPENDIX A

	Assistant City Attorney I	Assistant City Attorney II	Assistant City Attorney III
Knowledge, skills, and abilities	Must demonstrate fundamental knowledge of the principles of law and legal research methods.	Must demonstrate complete and thorough knowledge of principles of law and legal research methods.	Must demonstrate advanced knowledge of principles of law and thorough understanding of statutory and case law pertaining to a technical area.
Scope of responsibility	Provide entry level legal advice and support. May assist other attorneys by investigating case facts, researching statutory and case law, and preparing pleadings, motions, briefs, or other legal documents.	Provide intermediate level legal advice and support and assist other attorneys working in specialized areas with research and related activities.	Provide specialized or advanced legal advice and support requiring comprehensive knowledge and expertise in areas involving significant public policy or City-wide impact.
Subject matter complexity	Duties may be repetitive and restricted in scope but of substantial intricacy.	Responsibilities increase in complexity. Work involves concepts, theories, and factors requiring a moderate degree of analytical ability, independent judgment and decision making.	Responsibilities are complex. Work involves concepts, theories, and factors requiring a high degree of analytical ability, independent judgment and decision making. Subject matter carries policy ramifications of a highly visible or sensitive nature.
Guidance and instructions	Guidance and standard practices or precedent directly apply to assignments. Responsibilities are performed within an established framework under general instructions.	Guidance is provided in the form of stated objectives with issues largely undefined. Consultation with more senior attorneys is expected when decisions require coordination with other areas of specialization.	Guidance is available as needed on policy matters. Employees work independently in determining case strategy, developing litigation tactics, and conducting litigation.
Oversight and direction received	Assignments are performed under some supervision. Final work product subject to review. Communication with supervisor regarding unique situations and problems is expected.	Assignments are carried through completion with substantial independence. Final work product is subject to administrative review.	Assignments are performed independently. Employees are expected to resolve problems that arise in the normal course of work. Work product is reviewed as necessary for conformance to policy and law.
Relationships responsibility and Interpersonal Communication	Contacts where explanatory or interpretive information is exchanged, gathered or presented according to established procedures or instructions.	Contacts where explanatory or interpretive information is exchanged, defended, and gathered and discretion and judgment are required.	Contacts are of a remedial nature involving resolution of a problem and where a high degree of discretion and judgment are required. Contacts with policy makers and elected officials require persuasion and ability to present viable legal positions and solutions.
Lead worker responsibilities	Not applicable	Not applicable	Expected to provide direction to less experienced attorneys in the performance of their duties. May oversee other attorneys who assist in investigation and research activities.